IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1496 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S PANDEYA

Versus

HON"BLE LABOUR COMMISSIONER

Appearance:

1. Special Civil Application No. 1496 of 1993

MR RV DESAI for Petitioner No. 1

MR PD BHATE, AGP for Respondent No. 1

M/S TRIVEDI & GUPTA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 18/03/2004

ORAL JUDGEMENT

1. In this petition decision of the Assistant Labour

Commissioner, Ahmedabad dated 30th November, 1992 is challenged. Vide said decision after considering the demands that were raised by the petitioner - union on behalf of its members, he came to the conclusion that the demands were not required to be entered for conciliation under section 12 (1) of the Industrial Disputes Act, 1947 (for short 'I.D. Act').

1.1. It appears that on behalf of its members the petitioner union had raised about 9 demands for which appropriate notice was given to the employer. However, since it did not meet with the favourable response, recourse to the help of the Assistant Labour Commissioner was sought for. Before the Assistant Labour Commissioner all the demands were discussed in detail. It appears that on due consideration of each demand, he came to the conclusion that the settlement in respect of all the said demands was still not over and it was to continue till 31st December, 1993 and no proceedings to terminate the said settlement were taken under the provisions of section 19 (2). It had its binding effect. The Assistant Labour Commissioner also found that considering the demands, it was very clear that it will create unnecessary financial burden on the employer when the settlement was still in operation. It has also found that there were not one but six settlements and the say of the petitioner union that signatures of the workmen were obtained fraudulently could be believed. According to him, obtaining the signatures fraudulently would happen once but not on all occasions and, therefore, he was of the opinion that the dispute raised by the petitioner was not even fit for entering conciliation proceedings under section 12(1) of the I.D. Act.

2. Having gone through the reasons assigned by the Assistant Labour Commissioner, it clearly appears that the demands were raised even when the settlement covering all those demands was in existence and it was valid upto 31st December, 1993. The Assistant Labour Commissioner has also given cogent reasons, demand-wise, for not accepting the same and also for holding that it would cause additional financial burden on the employer. There does not appear to be any error committed muchless the error on the face of the record by the Assistant Labour Commissioner.

2.1. Learned advocate for the petitioner Mr. R.V. Desai has been remaining absent whenever this mater is called out. The order sheet shows that on account of his absence atleast before this Court, on 9 occasions it has been adjourned. In that view of the matter, I do not see

any reason not to decide this petition in his absence. Even otherwise also there is no merit in the petition and it deserves to be dismissed.

3. In the result, the petition is dismissed. Rule discharged with no order as to costs.

[AKSHAY H. MEHTA, J.]

* Pansala.